

APPEAL NO. 040512  
FILED APRIL 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 12, 2004. The hearing officer determined that the appellant (claimant) waived the right to contest the Texas Workers' Compensation Commission (Commission) Order extending the date of maximum medical improvement (MMI) by failing to file a dispute within 10 days after receiving the Commission Order. The claimant appealed the hearing officer's determination. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 126.11 (Rule 126.11) sets forth the procedure for obtaining a Commission Order for the extension of the date of MMI for spinal surgery and the effect such orders have. Rule 126.11(h) states:

If a request for benefit review conference [BRC] is not received by the commission within ten days after the date the order granting or denying the extension was received by the disputing party, the parties waive their right to dispute the commission order. In the event that an order is timely disputed, the order shall remain binding pending final resolution of the dispute.

It is undisputed that the Request for Extension of [MMI] for Spinal Surgery (TWCC-57) was denied by the Commission on July 8, 2003; that the Commission Order was mailed to the claimant on July 10, 2003; and that the Request for a [BRC] (TWCC-45) disputing the Commission Order of July 8, 2003, was received by the Commission on August 14, 2003. The claimant, for the first time on appeal, argues that her attorney relied on an "official action" advising the attorney to wait on a designated doctor's report before the claimant requested a BRC. Additionally, the claimant alleges for the first time on appeal that she requested dispute resolution information system notes, but the request was not processed in time for the CCH. As a general rule, the Appeals Panel does not consider matters raised for the first time on appeal.

The hearing officer did not err in determining that the claimant waived the right to contest the Commission Order extending the date of MMI by failing to file a dispute within 10 days after receiving the Commission Order. We have reviewed the complained-of determination and conclude that the hearing officer's determination is not wrong as a matter of law and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order and affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**MAYOR OF (CITY)  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Veronica L. Ruberto  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Chris Cowan  
Appeals Judge